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August 13, 2008

Via Facsimile and Federal Express

Honorable Judith G. Dein
United States Magistrate Judge
United States District Court for the District of Massachusetts
John Joseph Moakley United States Courthouse
1 Courthouse Way, Courtroom 15, 5th Floor
Boston, MA 02210

RE: Encompass Insurance Company v. Giampa, et al., Case No. 05-cv-11693

Dear Judge Dein:

In accordance with your Order of July 30, 2008, attached please find the parties' joint proposed scheduling order for the remainder of the case through trial. As the Court is likely aware, defendants Frederick T. Giampa, Joseph D. Giampa, Edward Kennedy, Future Management Corporation, and Advanced Spine Centers, Inc. filed an unopposed motion yesterday, seeking to stay this litigation pending the resolution of the parallel criminal investigation/prosecution. If this motion is granted, this proposed scheduling order will be moot. If discovery does go forward in this litigation, the parties intend to finish discovery on the supplemental allegations as well as any remaining discovery on plaintiff's existing claims by the close of fact discovery date set forth in this proposed order.

Should the Court have any questions or concerns, the parties respectfully request a telephone conference with the Court to discuss the matter. I thank the Court for its consideration.

Respectfully,


Barry Gross

bg/mab

cc: Matthew J. Conroy, Esq. (via Federal Express)
Thomas M. Ciampa, Esq. (via Federal Express)
Kevin J. Lesinski, Esq. (via Federal Express)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY
OF MASSACHUSETTS,

Plaintiff,

v.

JOSEPH D. GIAMPA, *et al.*,

Defendants.

Civil Action No.: 05-11693-RCL

JOINT PROPOSED SCHEDULING ORDER

In accordance with Fed. R. Civ. P. 16(b), it is hereby ORDERED as follows:

1. The parties shall comply with the following schedule:
 - a. The parties shall complete all fact discovery by **February 20, 2009**.
 - b. Plaintiff shall have the option to withdraw its expert disclosures and serve new expert disclosures by **March 20, 2009**.
 - c. Defendants shall serve their expert disclosures (whether in response to Plaintiff's original disclosures or in response to new disclosures) by **April 20, 2009**.
 - d. Counter-claimants shall serve their expert disclosures by **May 20, 2009**.
 - e. Counter-defendant shall serve its expert disclosures in response by **June 22, 2009**.
 - f. The parties shall complete all expert discovery by **July 20, 2009**.
 - g. The parties shall file any motions for summary judgment by **August 31, 2009**. Any responses to summary judgment motions shall be due by **September 30, 2009** (or 30 days after the motion is filed).
 - h. Any concise statement of material facts that is filed pursuant to Local Rule 56.1 in opposition to a motion for summary judgment shall include numbered paragraphs admitting or denying, paragraph by paragraph, the facts contained in the moving party's concise statement of material facts.
 - i. The trial date will be set by the Court.

2. The next status conference shall be held on the date as further ordered by this court and shall be held in Courtroom #15 on the 5th floor. At that time the parties shall be prepared to discuss:

- i. the status of the case;
- ii. scheduling for the remainder of the case through trial;
- iii. use of alternative dispute resolution ("ADR") programs; and
- iv. consent to trial before the Magistrate Judge.

3. The parties shall submit a brief joint statement no later than five (5) business days before the conference addressing the issues itemized in paragraph 2 above. With respect to the use of ADR and having the matter tried by the Magistrate Judge, the parties shall indicate whether an agreement has been reached, but are not obligated to identify their respective positions.

Judith Gail Dein
United States Magistrate Judge

Dated: _____, 2008

CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing Joint Proposed Scheduling Order was filed electronically with the Clerk's Office for the U.S. District Court for the District of Massachusetts and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing. Paper copies will be sent to those indicated as non-registered within twenty-four (24) hours of this filing.

Dated: August 13, 2008.

/s/ Barry Gross
Barry Gross